US Army Corps of Engineers

Southbridge Conference Center

4-7 April 2006

Real Estate Conference

1015 - 1200 Wednesday

Military Mission

Title 10 Reports

Leased Government Housing (LGH)

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MILITARY MISSION

- Informal Open Discussion
- Focus on some issues
  1. Source of Funds/Programs
  2. Work In-Kind Services
  3. Telecommunications Policy
  4. Military Management SubCop Issues/Concerns
  5. Open Discussion/Questions

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Covered in Other Break-out Sessions

- *Air Force Policy*
- *CREST Mission*
- *BRAC Requirements*
- *Forestry Program*
- *Recruiting Program*
- *In-Leasing*
- *Disposal*
- *Home Owners Assistance Program*
- *Enhanced Use Leasing*
- *Appraisal Issues*
- *Automation*
- *Relocation Assistance*
- *Regulations/Policy*

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Sale & Outgrant Program (50/50 split)

- Army HQ and Garrisons divide cash payments for sale and outgrant programs (non-BRAC), which are reappropriated back to the Installation (with some restrictions for use)
- The recent amendments allow in-kind consideration (in lieu of rent)

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Enhanced-Use Leasing (EUL)

- Authorized by 10 USC 2667 enhanced w/ PL 106-398
- Special Leasing to the private sector for development of underutilized lands, the cash payments for rent are subject to 50/50 split,
- Installations are encouraged to retain 100% of in-kind consideration (in lieu of rent)

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Timber Disposals (10 USC 2665)

- Reimbursed for management & administrative costs by (AEC) from proceeds from the sale
- 40% of net revenues paid to a State for public schools and roads of the counties in which the installation is located
- Any Marketable Timber must be deposited into this account (not an offset for construction)

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Agriculture/Grazing Leases

- Army agencies are reimbursed for management & administrative costs by Army Environmental Center (AEC) from proceeds generated from the lease revenues
- If not currently in program, can obtain funding, if it is cost effective (Timber & AG/Grazing)

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Administrative Expenses for Outgrants & Disposals

- Acceptance of funds for administrative cost associated with entering into the transaction (appraisals, surveys, mapping, legal descriptions, environmental assessments) in addition to consideration.
- Funds will be credited to the appropriations, fund or account from which the expenses were paid.

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Real Estate Embedded Fee

- This is the 10% management fee retained at the district level from the cash consideration to help defray the cost of Real Estate program actions (management, compliance inspections, potential disputes, interface with the tenant, and other oversight duties).

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Most Desirable Method

- Obtain 90% of consideration as in-kind expenses (rental off-set)
- Collect 10% Administrative/Management Fee as cash consideration

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In-Kind Work (Example)

- Dewey Lake Paving Project September 2005 (Huntington)
- Granted 5 year Easement for underground utilities
- Receive annually cash for RE admin services and $125K in-kind services in lieu of cash rent

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Shelter 2 Parking area

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Entrance to Downstream area

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Mitigation Requirements

- In-kind work for mitigation of damages to repair/restore/replace damages caused by construction or development of the project/site
- Actions taken to counter the adverse effects of a project (fully compensate or replace loss)
- Losses are inconsequential (or outweighs the losses)
- Mitigation based of the character of a particular site, the nature of the impacts and the opportunities to avoid or offset these impacts

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Payments in Lieu of Taxes (PILT)

- Federal payments to local governments that help offset losses in property taxes due to nontaxable Federal lands within their boundaries.
- The Law recognizes that the inability of local governments to collect property taxes on Federally-owned land can create a financial impact

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Telecommunication Policy

- Guidelines for Wireless Telecommunications Facilities
- Standard Formats for Application and outgrants
- Balance between the demand for wireless communication, natural and cultural environment and mission requirements
- Requires analysis from Joint Spectrum Center for potential electromagnetic interference to DOD systems (existing & planned)

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Military Management SubCop Issues

- REMIS/CEFMS collection/billing for Admin Fee and Embedded Fees (cumbersome)
- Encroachment and boundary issues not identified or reported for resolution
- Loosing RE Knowledge, Skills & Experience
- Base Ops funding less than requirements

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Regulations

- Draft (AR 405-1) Real Estate Asset Management
  - Combines 8 RE regulations into one regulation
    - acquisition of real property; management of title; jurisdiction, annexation, real estate claims, granting use; minerals, disposal of real property and several DOD Executive Agent programs
- Installation Real Estate Manual (IREM) – Procedures for pre-outgrant reviews and availability (Disposal/Management/Outgrants)
- ER 405-1-12 - Real Estate Manual (several chapters revised to EC 405-1-XX)

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MOU/MOA/ISA

- MOA, MOU, or ISA are not outgrants.
  - MOAs and MOUs document areas of responsibility or mutual understanding.
  - Support Agreement - Reimbursable support; define the services and the basis for providing the services
- If Non-DA use of real property is expected under these agreements, should be supported by the appropriate realty outgrant instrument

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Installation License

- GC may grant Installation licenses to authorize contractors to use property and to erect temporary structures in connection with a Government construction contract.
- Risk and liabilities for this use are covered by the contract
- Real Estate use is normally incidental

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Fisher House

- Fisher House™ is "*a home away from home*" for families of patients receiving medical care at major military and VA medical centers
- Congress recognizes the Fisher Foundation to construct and donate the house to Army (authorized to be an MWR activity)
- If DA disposes of the facility, the money goes into the Fisher House Trust Fund
- GC authorized to allow Fisher Foundation and its contractors to use property and to erect temporary structures during construction
  - These are not Army contracts, so risk and liabilities must be provided in the license authorizing such use, or in some other agreement covering the project.

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ATM's

- Issued under the same requirements as banks (self-sustaining/non-self sustaining) or credit unions (above or below 95%)
- All bank, credit union, & ATM agreements are issued under lease program; unless located within bank/credit union leased facility

NOT AAFES!!!

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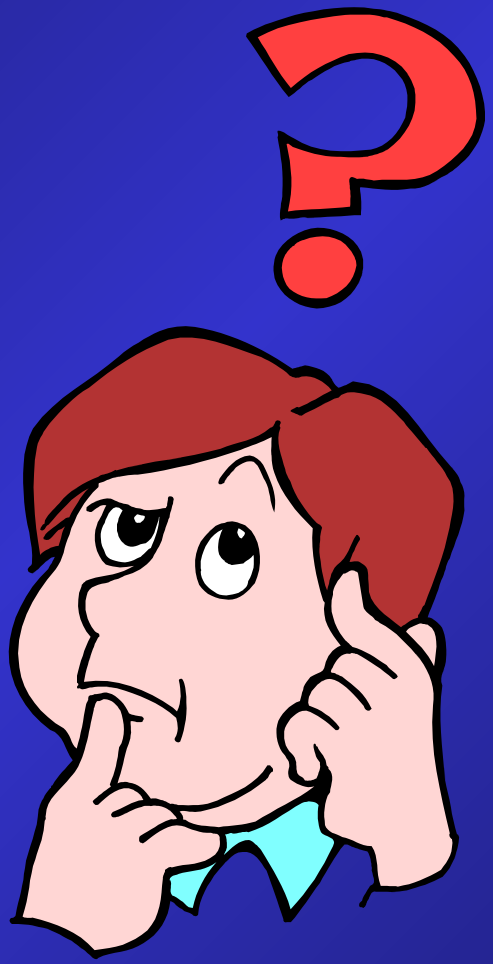
Questions



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Title 10 Reports

- Title 10 U.S. Code 2662
- Real property transactions: Reports to Congressional Committees, amended by Public Law 108-136, sec 1031(a)

ACQUISITION REPORTS

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Acquisition Reports

Objectives

- **Know United States Code Section Which Requires This Report**
- **Know Dollar Threshold For Reporting To Congress**

Acquisition Reports

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MANDATED By Title 10, United States Code, Section 2662

- **Requires Approval From Congress For Inleases When The Annual Rental Exceeds $750,000**

- **Statute Also Applies to Purchases, Transfers, Exchanges, Disposals, and GSA Occupancy Agreements**

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Acquisition Reports

- The Army Installation Requesting Leasing Transaction Is Responsible for ACSIM Approval
- Reports Submitted to Committees Each Month
- Rent Estimate Must Be Supported by an Approved Appraisal
- Factual Accuracy Essential
- When In Doubt, Submit

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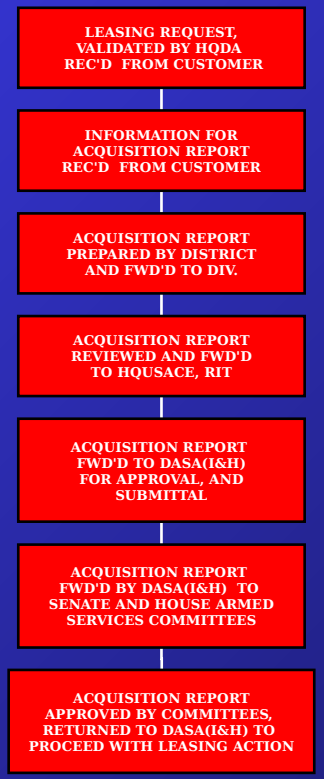
Flowchart For Acquisition Reports

This flowchart identifies the route an acquisition report follows from beginning to end.

HQUSACE - CECC-R


LEASING REQUEST, VALIDATED BY HQDA REC'D FROM CUSTOMER
INFORMATION FOR ACQUISITION REPORT REC'D FROM CUSTOMER
ACQUISITION REPORT PREPARED BY DISTRICT AND FWD'D TO DIV.
ACQUISITION REPORT REVIEWED AND FWD'D TO HQUSACE, RIT
ACQUISITION REPORT FWD'D TO DASA(I&H) FOR APPROVAL, AND SUBMITTAL
ACQUISITION REPORT FWD'D BY DASA(I&H) TO SENATE AND HOUSE ARMED SERVICES COMMITTEES
ACQUISITION REPORT APPROVED BY COMMITTEES, RETURNED TO DASA(I&H) TO PROCEED WITH LEASING ACTION

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Acquisition Reports

The statute requires waiting either 14 or 30 days from submittal before entering into the reported transaction. By longstanding agreement with the Armed Services Committees, NO final action will be taken by Army (or USACE) until the Committee approval letter is received.

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LGH

- Leased Government Housing (LGH)